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Cox Cable Communications

James A. Hatcher
Vice President &
General Counsel

May 17, 1994

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Mr. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street, NW
Room 222, Stop Code 1170
Washington, DC 20554

RE: MM Docket 92-266 - Ex Parte Presentation

Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's Rules, enclosed are two copies of a letter which was delivered today to Mr. Patrick J. Donovan, Acting Chief of Policy and Rules. The letter discusses issues before the Commission in the above-referenced proceeding.

Very truly yours,

James A. Hatcher

James A. Hatcher

JAH/mc

enclosures

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Cox Cable
Communications

James A. Hatcher

May 17, 1994

Patrick J. Donovan, Esq.
Acting Chief of Policy & Rules Division
Cable Services Bureau
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Mr. Donovan:

I greatly appreciate you and your colleagues meeting with Pat Esser and me on May 10 to discuss leased access. Leased access can provide an outlet to programmers who would otherwise be unable to exhibit their product. At the same time, cable operators can make diverse programming available to their customers while being compensated for use of a valuable asset.

The current formula for determining the maximum reasonable rate for leased access works quite well. The rate for longer time periods, such as a day, is fair and reasonable to leased access users and to the cable operator. When broken down to smaller time periods, such as an hour, however, it does not fully compensate the cable operator for the additional administrative burden of handling many different users (see attachments). The cable operator should be allowed an additional "administrative charge" for leases less than one day.

The Commission should not use an average implicit rate. To use less than the highest implicit rate could lead to leases of entire channels by large program brokers and national organizations to the exclusion of the smaller, local users.

Cox would be strongly opposed to a mandatory, separate, lower rate for non-profit organizations. In spite of much publicity, 500 channel systems are not a reality and virtually every cable operator faces a shortage of channel capacity. This lack of supply makes this asset very valuable, and just as the owner of an office building is not willing to give away office space to non-profit organizations, the cable operator does not want to be forced to give up its property for less than a fair market return. Having said this, however, Cox Cable would be willing to make available to certified non-profit organizations unused leased access time at its discretion. Also, bear in mind that the rate set is the maximum permitted rate. Cox, as well as many other cable operators, readily negotiates more favorable rates with non-profit organizations, but this should be the operator's choice, not government mandated.

Of course, non-profit organizations can always use public access channels free of charge. If a public access channel is not available, the non-profit organization should discuss this with the franchising authority which has the right to require the cable operator to provide public access channels.

Cox would like to see any reconsideration of the leased access rules recognize the varying values for different dayparts. Prime time is more valuable than late night, and the cable operator should be allowed to charge different rates reflecting these values as long as the average rate does not exceed the maximum reasonable rate.

Also, the operator should be allowed to establish a minimum amount of time which must be purchased as leased access. Any time block less than one hour creates a difficult administrative burden and could result in the operator losing the opportunity to lease larger blocks of time because a small segment of the desired time period is already taken. Blocks of time less than one hour could be sold as programming time, not leased access.

Leased access can be a much needed outlet for programmers and also allow the cable operator to provide its subscribers with a variety of programs. However, leased access programming is not the reason people subscribe to cable. In trying to promote the use of leased access, the Commission must keep in mind the Cable Act's directive that the price, terms and conditions for leased access be "at least sufficient to assure that the use will not adversely effect the operations, financial condition or market development of the cable system." 47 U.S.C. § 612(c)(1).

Very truly yours,

James A. Hatcher

James A. Hatcher

JAH/mc

cc: Mr. Patrick J. Esser
Karen Kosar, Esq.
JoAnn Lucanik, Esq.
John Norton, Esq.

DETERMINING MAXIMUM REASONABLE RATE

Non-Shopping Programmer

System (A)

\$22.49 (Basic & Expanded Rate) ÷ 42 (Activated Channels) = .53548

.53548 x 59,300 (Customer HH Reached) = \$31,753.96

Rate/Channel/Month	\$31,754.00
Average Rate/Channel/Day	\$1,044.00
Average Rate/Channel/Hour	\$43.50

Daypart Rate Worksheet:

12Mid-6A	\$9/Hr.
6A-6P	\$27/Hr.
6P-12Mid	\$108/Hr.

DETERMINING MAXIMUM REASONABLE RATE

Shopping Service Programmer

System (A)

\$22.49 (Basic & Expanded) ÷ 42 (Activated Channels) = .53548

.53548 x 59,300 (Customer HH Reached) = \$31,753.96

Add \$3,806.99 (Shopping Revenue Per Month) = \$35,560.95

Rate/Channel Month	\$35,561.00
Average Rate/Channel/Day	\$1,169.00
Average Rate/Channel/Hour	\$48.71

Daypart Rate Worksheet:

12Mid-6A	\$10/Hr.
6A-6P	\$32/Hr.
6P-12Mid	\$120/Hr.

DETERMINING MAXIMUM REASONABLE RATE

Pay Service Programmer

System (A)

$11.00 (HBO Per Month) - $4.50 (HBO Program Cost) = $6.50

$6.50 x 29% (Penetration of HBO) = $1,885.00

$1,885.00 x 59,300 (Customer Households Served) = $111,780.50

Rate/Channel Month	$111,780.50
Average Rate/Channel/Day	$3,675.00
Average Rate/Channel/Hour	$153.00

Daypart Rate Worksheet:

12Mid-6A	$60/Hr.
6A-6P	$120/Hr.
6P-12Mid	$295/Hr.